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OFFICE OF PETITIONS

**Sprinkle IP Law Group
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In re Application of :
Igor A. Shmulevich et al. :
Application No. 09/682,655 : **DECISION ON PETITION**
Filed: October 2, 2001 :
Attorney Docket No. VIGN1330-1 :

This is a decision on the Petition To Expunge Under CFR 1.59(b) and Request for Refund, filed August 10, 2012, which is being treated as a petition under 37 CFR 1.59(b), to expunge information from the above identified application.

The petition is **dismissed**.

The petition fee for a petition filed under 37 CFR 1.59(b) is currently \$200. The \$400 petition fee submitted with the petition is \$200 in excess of the required amount and the \$200 excess fee has been refunded to petitioner's deposit account.

Petitioner requests that the PTOL-85 submitted by Ari Akmal, filed August 10, 2012, be expunged from the record. Petitioner states this paper was erroneously submitted under the PKI number of Ari Akmal rather than the intended PKI number of Katharina Schuster.

MPEP 724.05(II) states in part:

II. INFORMATION UNINTENTIONALLY SUBMITTED IN APPLICATION

A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

- (A) the Office can effect such return prior to the issuance of any patent on the application in issue;
- (B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the

information was submitted;

(C) the information has not otherwise been made public;

(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;

The petition is deficient because there is no statement addressing (B), (C) and (D).

Further, petitioner characterizes the PTOL-85 as filed unintentionally. Expungement of papers filed unintentionally is discussed in MPEP 724.05(II). However, the PTOL-85 transmitted by Ari Akmal is clearly identified as being intended for the instant application and is a proper response to the Notice of Issue Fee Due, mailed May 15, 2012. Ari Akmal is an attorney of record in the above identified application and therefore is authorized to file papers in the application. Further, the form PTOL-85 is signed by Katharina Schuster who is the intended signer of the form.

For the above reasons, the petition is dismissed.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

A handwritten signature in black ink, appearing to be 'Carl Friedman', with a long horizontal flourish extending to the right.

Carl Friedman
Petitions Examiner
Office of Petitions